

CITY OF HOMER  
HOMER, ALASKA

City Clerk

ORDINANCE 95-1(S)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
REPEALING AND REENACTING HOMER CITY CODE TITLE 4,  
ELECTIONS.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. That the Homer City Code Title 4, Elections, is hereby repealed  
and reenacted to read as follows:

Title 4

ELECTIONS

Chapters:

- 4.01 General Provisions
- 4.05 Voter Qualifications
- 4.10 Candidate Declaration
- 4.15 Ballots
- 4.20 Operation of Polls.
- 4.25 Counting of Ballots
- 4.30 Absentee Voting
- 4.35 Canvassing and Certification of Election Results
- 4.40 Runoff Election
- 4.45 Election Recount
- 4.50 Election Contest
- 4.55 Judicial Review
- 4.60 Initiative, Referendum and Recall

Chapter 4.01

GENERAL PROVISIONS<sup>1</sup>

Sections:

- 4.01.010 Incorporation of state and federal law pertaining to  
municipal elections.
- 4.01.020 Definitions.
- 4.01.030 City Clerk to administer election.
- 4.01.040 Date of election.
- 4.01.050 Notice of election.
- 4.01.060 Precincts and polling places.
- 4.01.070 Election supplies and equipment.
- 4.01.080 Sale of intoxicating beverages permitted.
- 4.01.090 Certain election practices prohibited.
- 4.01.100 Expenses
- 4.01.110 Oath of Office
- 4.01.120 Destruction of Election Materials.
- 4.01.130 Use of mechanical or electronic voting equipment

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<sup>1</sup>For Alaska Statute provisions regarding Municipal Elections,  
AS 29.26.010, et seq.

4.01.010 Incorporation of state and federal law pertaining to municipal elections. All provisions of the constitution of the United States, the constitution of the State of Alaska, and any laws enacted pursuant to the Constitution(s) affecting first class City elections are incorporated in this chapter as if fully set out herein. The provisions of the Alaska Statutes relating to conduct of municipal elections are incorporated into this chapter as if fully set out. Procedures for the conduct of State elections shall also govern City elections to the extent that they are applicable.

4.01.020 Definitions. In this chapter, unless the context requires otherwise:

- a. The masculine includes the feminine.
- b. "Canvass" means and includes, but is not limited to:
  1. The counting of absentee and questioned ballots; and
  2. Examination of precinct election materials and certificates of election officials.
- c. "Clerk" means the City Clerk or any properly authorized assistant or designee.
- d. "Counting time" means weekend days and holidays are counted. When deadlines occur on Saturday, Sunday or a holiday, the deadline is automatically extended to the next Monday or the next normal working day, whichever is applicable. Time computation shall be as provided in the General provisions of the Homer City Code.
- e. "Days" means and includes weekends and holidays.
- f. "Election" means and includes any regular or special election for the City of Homer.
- g. "Election Officials" means the City Clerk or his designee, election judges and election clerks and canvassing boards.
- h. "Election Supervisor" means the City Clerk.
- i. "Oath" means and includes affirmation.
- j. "Precinct" means the territory established by the Lieutenant Governor within which resident voters may cast ballots at one polling place.
- k. "Proposition" means and includes questions, initiatives and referendums.
- l. "Publication" means a newspaper of general circulation and/or posting in public places.
- m. "Qualified voter." See Section 4.04.070.
- n. "Regular Election" means a general election to fill City offices.
- o. "Special Election" means any election held at a time other than when a Regular Election is held.
- p. "Swear" means and includes affirm.
- q. "Total Votes Cast" means the total number of votes cast in each seat for candidates whose names are printed on the ballot plus votes properly cast for the same seat in the write-in position(s) of the ballot. Ballots which are counted as blank votes in a particular race and ballots which are counted as over votes in a particular race shall not be added into the total votes in determining the percentage of votes cast.
- r. "Voter" means any person who presents himself for the purpose of voting, either in person or by absentee ballot.

4.01.030 City Clerk to administer elections. The City Clerk in accordance with the provisions of this chapter is the Election Supervisor for and shall administer all City Elections.

4.01.040 Date of Election. Regular City Elections shall be held on the first Tuesday in October of each year.

Special Elections may be held on any Tuesday during the year, and are called by Resolution of the Council providing for at least twenty days' notice pursuant to Alaska Statutes Title 29.

4.01.050 Notice of Election. a. The City Clerk shall post the notice of each regular and special election in three public places and publish it at least twice in one or more newspapers of general circulation in the City. the first such publication shall be accomplished at least twenty days prior to the election and the last notice is to be accomplished within the week prior to the election.

b. Each notice shall include:

1. The type of election, regular or special.
2. The date of the election.
3. The hours the polls will be open and the location of the polling place.
4. The offices to which candidates are to be elected.
5. The subjects of propositions to be voted upon.
6. Voter qualifications and instructions for registration including the final date for registration before this election.
7. Instructions for application for absentee voting.
8. A reference to polling places with a description of the voting precincts.

4.01.060 Precincts and polling places. a. The precincts established by the State Director of Elections and set forth in the Alaska Administrative Code shall be the precincts for all City elections. The Clerk shall secure a polling place within each precinct, if possible, for all City elections.

b. On the day of the election, each election board shall open the polls for voting at seven a.m., shall close the polls for voting eight p.m. and shall keep the polls continuously open during the time between those hours. The election board shall report to the polling place by six thirty a.m. so that voting will start promptly at seven a.m. The chairman of the election board shall rotate times at which election judges, board members and clerks may be relieved for breaks or meals; provided, however, that at all times at least two judges from the election board are present at the polling place.

c. No later than twenty days before each regular and special election, the Clerk shall publish in one or more newspapers of general circulation in the City the locations of the precinct polling places. Such publication shall be repeated within the week prior to the election. This publication is in addition to the notice of election. When precincts or polling places have changed since the last City, Borough or State election, this publication is required in addition to the notice of election.

4.01.070 Election supplies and equipment. a. Before the opening of the polls, the Clerk shall furnish to the Election Board of each precinct the state voter registration list for that precinct and shall equip and supply each polling place with sufficient materials for that precinct's election, including those materials required by this section.

b. The Clerk shall prepare instructions explaining to voters how to obtain ballots, how to mark them, how to obtain information from election officials and how to obtain new ballots to replace those destroyed or spoiled. These instructions shall be printed in large, clear type and shall be distributed to the Election Boards to be prominently displayed in each polling place. The Clerk shall provide booths at each polling place and appropriate supplies and conveniences to enable each voter to mark his ballot screened from observation. Ballot boxes shall be placed outside the voting booths in plain view of the election officials, voters and other persons at the polling place. The polling place will be marked by display of the

American flag on election day.

4.01.080 Sale of intoxicating beverages permitted. The sale of intoxicating beverages is lawful during elections held within the City limits. The provision of AS 4.15.070 (A) (2) does not apply as authorized by AS 4.16.070 (b) .

4.01.090 Certain election practices prohibited. The provisions of AS 15.55 are adopted and those acts made unlawful in that chapter are hereby made unlawful acts within the scope of this chapter. The listing of prohibited practices elsewhere in this chapter shall be deemed supplementary to the state law and the actions hereafter made unlawful even though not specifically mentioned in State law.

4.01.100 Expenses. The City shall pay all necessary election expenses, including those of securing polling places and providing ballot boxes, ballots, voting booths or screens, national flags and other supplies and any wages due election officials unless otherwise provided by this Code. The City shall pay each election official the hourly rate for similar election officials for State elections for the time spent at their election duties, including the receiving of instruction.

4.01.110 Oath of Office. Oaths of office shall be administered for City offices including Councilmen and Mayor, which shall affirm in writing that they will honestly, faithfully and impartially perform their duties. These oaths will be kept on file at City Hall by the City Clerk.

4.01.120 Destruction of election materials. 1. All ballots and tabs may be destroyed thirty days after the certification of the results of the election unless an application for a recount has been filed and the recount not completed, or the election has been contested and the results of the contests have not been certified.

2. Certificates of election, voter registers, and tallies shall be retained for a period of four years after the election.

4.01.130 Use of mechanical or electronic voting equipment. Procedures for designing, marking and counting ballots may be altered to specifically accommodate use of mechanical or electronic voting equipment providing the procedures and equipment are those utilized by the election supervisor in State Elections.

## Chapter 4.05

### VOTER QUALIFICATIONS

#### Sections:

- 4.05.010 Voter Qualifications
- 4.05.020 Rules for Determining Residence of Voter.
- 4.05.030 Registration.
- 4.05.040 Voter Disqualification for Felony Conviction.

4.05.010 Voter qualifications. A person is qualified to vote in a municipal election who:

- a. Is a Citizen of the United States;
- b. Has passed his 18th birthday or is such other age as prescribed by law for voting in state elections;
- c. Has been a resident of the municipality for thirty days immediately preceding the election;
- d. Is registered to vote in State elections at a residence address

within the municipality at least thirty days before the municipal election at which the person seeks to vote.

4.05.020 Rules for Determining Residence of Voter. For purposes of determining residence for voting, the place of residence is governed by the following rules:

a. The residence of a person is that place in which habitation is fixed, and to which, whenever he is absent, he has intention to return. If a person resides in one place but does business in another, the former is the person's place of residence. Temporary camps do not constitute a dwelling place.

b. A change of residence is made only by the act of removal joined with the intent to remain in another place. There can only be one residence.

c. A person does not gain or lose his residence solely by reason of his presence while employed in the service of the United States or of this state, or while a student of an institution or asylum at public expense, or while confined in a public prison or while residing upon an Indian or military reservation, or while residing at the Alaska Pioneers Home.

d. No member of the armed forces of the United States, his spouse or his dependent is a resident of this state solely by reason of being stationed in the state.

e. A person does not lose his residence if he leaves his home and goes to another country, state, or place within this state for temporary purposes only and with the intention of returning.

f. A person does not gain a residence in a place to which he comes without a present intent to establish a permanent dwelling there.

g. A person loses his residence in this state if he votes in an election held in another state, and has not upon his return regained his residence in this state under the provisions of this chapter and state law.

h. The term of residence is computed by including the day on which the person's residence commences and by excluding the day of the election.

4.05.030 Registration.

a. No person may vote in an election unless he is a qualified voter under the Alaska State constitution and laws of Alaska and has prescribed by this chapter and has registered as required by the state election code and HCC §4.05.020.

b. The precinct election officials at any election shall allow a person to vote whose name is on the official registration list for that precinct and who is qualified under this chapter and AS 15.05. A person whose name is not on the official registration list shall be allowed to vote a questioned ballot.

4.05.040 Voter Disqualification for Felony Conviction. A person whose qualifications to vote have been questioned on the basis of a felony conviction must vote a questioned ballot. A person's vote shall not count where the voter has been convicted either by state courts of Alaska, by the courts of another state or by the federal courts of a felony involving a moral turpitude under Alaska law unless his civil rights have been restored by law or by proper authority in the jurisdiction in which the person was convicted. Felonies involving moral turpitude include, but are not limited to, the crimes of murder, rape, robbery, kidnapping, burglary, incest, and other crimes, which are punishable by imprisonment in the penitentiary under Alaska law and which involve conduct contrary to justice, honesty, modesty, or good morals.

Chapter 4.10.

CANDIDACY DECLARATION



Sections:

- 4.10.010 Declaration of Candidacy
- 4.10.020 Candidate Qualifications
- 4.10.030 Correction, amendments and withdrawal of declarations of candidacy.
- 4.10.040 Review of candidate qualifications.
- 4.10.050 Prohibitions
- 4.10.060 Notice of vacancies.

4.10.010 Declaration of Candidacy A. Time. The period for filing declarations of candidacy shall be August 1st through August 15th. Should August 15th fall on a Saturday or Sunday, then candidates shall have until Monday following to file their declarations as provided in the rules of counting time; definitions.

b. Notice. At least one week preceding the candidate filing period, the City Clerk shall publish a notice announcing that candidacy declarations are available, naming offices and the terms that are open on the next regular election day. The notice shall include:

1. Candidate qualifications.
2. Time for filing declarations.
3. Where to file declarations.

c. Declaration. The City Clerk shall provide a form for declaration purposes which will include candidate's name, residence address, mailing address and telephone number. A statement of City residence, voter qualifications and the name of the office and the date of the election to which he declares himself a candidate; the term of office; and a statement of acceptance of the office if elected and an acknowledgement of compliance with the State of Alaska Campaign Disclosure Law. The declaration will be signed and dated by the candidate and sealed by a notary. The candidate's name shall be printed as specified on the declaration for candidacy (See ballot form in Section 4.04.100 for prohibitions).

4.10.020 Candidate Qualifications.

- a. Must be a qualified voter as noted in HCC 4.05.
- b. Must meet the eligibility requirement of HCC 1.24.020.

4.10.030 Correction, amendments and withdrawal of declarations of candidacy. Any candidate may withdraw his nomination at any time during the period for filing declarations by appropriate written notice to the City Clerk. However, after the last filing date for candidacy declarations has closed, no declaration may be corrected, amended or withdrawn.

4.10.040 Review of candidate qualifications. The Clerk shall determine whether each candidate for municipal office is qualified as provided by law. At any time before the election the Clerk may disqualify any candidate whom the clerk finds is not qualified and immediately notify that candidate by certified mail. A candidate who is disqualified may request a hearing before the clerk within five days of receiving the notice. The hearing shall be held no later than five days after the request unless the candidate agrees in writing to a later date.

4.10.050 Prohibitions

- a. A person may not serve simultaneously as Mayor, Councilmember, Commissioner or member of the Library Advisory Board.
- b. No elected municipal official may hold any other municipal office or employment or elected position in the state or federal government while in office.

4.10.060 Notice of vacancies. Procedure to be followed as outlined in HCC 1.24.050.

Chapter 4.15

BALLOTS

Sections:

- 4.15.010     Ballots--Form
- 4.15.020     Ballots Distribution

4.15.010 Ballots--Form. a. Ballots shall be prepared in the manner prescribed for State elections, insofar as such requirements are applicable to nonpartisan elections.

b. City of Homer Official Punchcard ballots shall be white with a narrow trim of green and paper ballots shall be of plain white paper. The ballots shall be numbered in series, the number being placed in an area set off by perforations for ease of removal and on a portion of the ballot that can be seen when the manner in which the ballot is marked is concealed for view. At the top of the ballot, so as to be clearly visible when folded, shall be printed the words: "Official Ballot of the City of Homer, Alaska," the date of the election, and whether a regular or special election.

c. All candidates for the same office shall be shown on one ballot. The title of each office to be filled shall be followed by the printed names of all candidates for that office and the provision shall be made for write-ins equal in number to the positions to be filled, except there shall be no provision made for write-ins on a runoff election ballot. The names of candidates shall be printed as they appear upon the petitions except that any honorary or assumed title or prefix shall be omitted, but may include in the candidate's name any nickname or familiar form of a proper name of the candidate. The words "Vote for not more than \_\_\_\_\_" with the appropriate number replacing the blank, shall be placed before the lists of candidates for each office. Ballots shall be numbered consecutively and candidate names rotated as prescribed in the Alaska Statutes covering elections.

d. Following the offices and candidates, there shall be placed on the ballot or on separate ballots as the Clerk may determine, all propositions or questions to be voted on. The words "YES" and "NO" shall be placed below the statement of each proposition or question. The Clerk shall determine the number of ballots to be used to present all offices, propositions and questions to the qualified voter.

e. The clerk shall have printed and available at each polling place on election day and in the Clerk's office preceding the election, the sample ballots on tinted paper for each election. Instructions to voters may be printed on the back of the sample ballot.

f. If the Election Board receives an insufficient number of official ballots, it shall provide and the voters may use a substitute ballot. The Election Board shall certify the facts which prevented the use of the official ballots and materials and shall include the certificate in the election returns.

4.15.020 Ballots--Distribution. a. The Clerk shall have the official ballots in his possession at least fifteen days (minimum requirement) before each regular election or seven days before each special election. At that time, the ballots may be inspected by any candidate whose name is on the ballot, or his authorized agent, and any mistake discovered shall be corrected immediately. Sufficient ballots for each precinct shall be delivered to the Election Board for that precinct.

b. The ballots shall be delivered in a separate sealed package, with

the number of ballots enclosed clearly marked on the outside of the package. A receipt shall be signed by the election Board member to whom each package is delivered; the receipt to be preserved with other records of election.

#### Chapter 4.20

#### OPERATION OF POLLS

##### Sections:

- 4.20.010 Election board.
- 4.20.020 Voting procedure at the polls.
- 4.20.030 Unused Ballots.
- 4.20.040 Polls closing and Ballot accounting.

4.20.010 Election board. a. The City Clerk, subject to approval by the City Council, shall appoint at least three judges for each City precinct. The Clerk shall designate one judge as chairperson who shall be primarily responsible for administering the election in that precinct. When a City election corresponds with an election conducted by the Kenai Peninsula Borough and/or state election the City Clerk shall appoint the same judges.

b. The City Clerk shall be the election supervisor. The City Clerk may appoint judges and other election officials as needed to conduct an orderly election and to relieve the election judges of undue hardship. If any appointed election board member is unable or refuses to serve on election day, the Clerk shall appoint a replacement for that member.

c. Each election board member serving at a precinct polling place must be a qualified resident voter in the precinct for which the board member is appointed; provided, however, that if no qualified resident voter is available and willing to serve, a voter from another precinct may be appointed.

d. Each election board member, before assuming the duties of the office, must subscribe to the oath required of all public officers by the Constitution of the State of Alaska in the manner prescribed by the City Clerk.

e. Any election board judge may administer to a voter any oath that is necessary in the administration of an election.

f. A candidate, a member of a candidate's immediate family, or a resident of a candidate's household shall not serve as an election board member for the election in which the candidate is running.

4.20.020 Voting procedure at the polls. a. Before issuing any ballots, the Election Board must, in the presence of any persons assembled at the polling place, open and exhibit the ballot box to be used at the polling place. The ballot box then shall be closed and locked and shall not be opened again or removed from the polling place until the polls have closed.

b. 1. Before being allowed to vote, each voter shall exhibit to an Election Judge one form of identification; including but not limited to an official voter registration card, driver's license, birth certificate, passport, or hunting or fishing license;

2. An Election Judge may waive the identification requirement if he knows the identity of the voter;

3. A voter who cannot exhibit a required form of identification shall be allowed to vote a questioned ballot.

c. The Judges shall keep a register or registers in which each voter, before receiving his ballot, shall sign his name and give both his residence and mailing address. A record shall be kept in the registration book in space provided of the name of person who offered to vote by who actually did



not vote, and a brief statement of explanation. The signing of the register constitutes a declaration by the voter that he is qualified to vote. If any election official present believes that voter is not qualified, he shall immediately question the voter according to the procedure outlined in subsection (b)(1) of this section. If the voter's polling place is in question, a voter shall be allowed to vote, and any Election Official shall consider the ballot as a questioned ballot.

d. When the voter is qualified to vote, the Election Judge shall give him an official ballot.

e. Each voter shall retire alone to a booth or private area to mark his ballot. If a voter is blind or otherwise physically unable to mark his ballot alone, he may request assistance and it may be permitted pursuant to AS 15.15.240. Immediately after making the ballot, the voter shall return it to the Election Judge, having concealed the manner in which it is marked. The Election Official shall remove the numbered tab in a manner that protects the secrecy of the ballot. In all cases the ballot shall be deposited in the ballot box by the voter himself, in the presence of the Election Judge unless the voter requests the Judge to deposit the ballot on his behalf. Separate ballot boxes may be used for separate ballots.

f. If a voter improperly marks or otherwise damages a ballot, he shall return it to the Election Officials, concealing the manner in which it is marked, and shall request a new ballot. The election officials shall record and retain the ballot number and destroy the spoiled ballot. A new ballot shall be issued to the voter. A voter may request replacement of a spoiled ballot no more than three times.

g. Prohibiting the Count of Exhibited Ballots. No Election Official may allow a ballot to be placed in the ballot box which he knows to have been unlawfully exhibited by the voter. A ballot unlawfully exhibited shall be recorded and treated as a spoiled ballot.

h. Fifteen minutes before closing the polls, the time remaining before such closure shall be proclaimed. When the polls are closed for the purposes of voting, that fact shall likewise be proclaimed and thereafter no ballot shall be issued except to those voters who were present and waiting their turn to go through the voting procedure at the time prescribed for closing the polls.

i. Questioned Ballot Procedure.

(1) Every election Judge and Election Clerk shall question, and every watcher and other person qualified to vote in the precinct may question an person attempting to vote if the questioner has good reason to suspect that the questioned person is not qualified to vote. All questions regarding the person's qualifications to vote shall be made in writing, setting forth the reason for the challenge. A questioned person before voting shall subscribe to an oath and affidavit provided by the Clerk attesting to the fact that in each particular case the person meets all the qualifications of a voter, that he is not disqualified, and that he has not voted previously at the same election. He shall also state the place from which he came immediately before living in the precinct in which he now offers to vote and the length of time of his residence in the former place. After the questioned person had taken the oath and signed the affidavit, the person may vote. If the questioned person refuses to take the oath or sign the affidavit, the person may not vote.

(2) A questioned voter shall vote his ballot in the same manner as prescribed for other voters. After the Election Judge removes the numbered tab from the ballot the questioned voter shall insert the ballot into a small blank envelop or secrecy sleeve, seal it, and put the envelop into a larger envelop in which the oath and affidavit previously signed are contained. This envelop shall be sealed and deposited in the ballot box. When the ballot box is opened these envelops shall be segregated for delivery to the Counting Center along with registration books, etc.

4.20.030 Unused ballots. Prior to the opening of the ballot box, the numbers of all ballots not issued shall be recorded and then all such ballots shall be destroyed.

4.20.040 Polls closing and ballot accounting. a. Fifteen minutes before the closing of the polls, and at the time of closing the polls, an election official shall announce both the designated closing time and the actual time at which the announcement is made. Failure to make the announcement at 15 minutes before closing time shall not in any way invalidate the election or extend the time for closing of the polls. After closing, no person will be allowed to enter the polling place for purposes of voting. Every qualified voter present and in line at the time prescribed for closing the polls may vote.

b. When the polls are closed and the last vote has been cast, the election board shall account for all ballots by completing a ballot statement containing, in a manner prescribed by the clerk, the number of official ballots supplied.

c. The Election Board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. Discrepancies shall be noted on the ballot statement.

d. Ballots and paper work shall be transported to the Counting Center by the polling place delivery team in the manner prescribed by HCC §4.25.070.

## Chapter 4.25

### COUNTING OF BALLOTS

<u>4.25.010</u>	<u>Authorized</u>
<u>4.25.020</u>	<u>Boards and teams.</u>
<u>4.25.030</u>	<u>Use of computers.</u>
<u>4.25.040</u>	<u>Tests and security.</u>
<u>4.25.050</u>	<u>Demonstration.</u>
<u>4.25.060</u>	<u>Voting ballots</u>
<u>4.25.070</u>	<u>Delivery of ballots to counting center.</u>
<u>4.25.080</u>	<u>Processing of ballots.</u>
<u>4.25.090</u>	<u>Manual counting.</u>
<u>4.25.100</u>	<u>Determination of tie votes.</u>

4.25.010 Authorized. The election supervisor may provide for punchcard voting at one or more voting places for one or more questions or offices on the ballot. In the case of a special election or run-off or as needed to conduct an election the City Clerk may issue paper ballots, which shall contain the same information as punchcard ballots; however, each paper ballot shall contain the City Clerk's signature for authenticity.

4.25.020 Boards and teams. a. Receiving team: 1. The election supervisor shall appoint at least three members. 2. Is responsible for receiving the ballots from precinct delivery teams, logging information regarding the same in a receiving team log, inspecting the seal on the ballot container, completing a delivery receipt and copying the delivery team with the same, and delivering the ballots to the Control Board.

b. Control Board: 1. The election supervisor shall appoint at least three members, the Receiving Team and Control Board may be the same members. 2. Is responsible for delivering the questioned and personal representative ballots to the clerk; reviewing the ballots for damage, write-in votes, loose debris, or other irregularities; and delivering ballot containers to the data processing review board.

c. Hand Count Team: 1. The election supervisor shall appoint as many counting teams as needed, consisting of at least four members each. 2. Shall count nonprocessable and write-in ballots with one member reading, one checking and two tallying/counting. 3. Shall also hand tally sample races as a test of accuracy of the computer ballots. 4. In Special Elections, wherein electronic ballot accounting equipment is not used or any time paper ballots are used, the Hand Count Team(s) are responsible for the full count of the ballots. After one team has counted a precinct another team will recount that same precinct to ensure accuracy, there shall be at least one recount for each precinct.

d. Data Processing Review Board: 1. The election supervisory shall appoint a data processing review board consisting of at least three members. 2. Is responsible for ensuring that all punchcard ballots are completely and accurately counted.

e. The election supervisor shall act as chairperson/coordinator for the Counting Center.

f. The election supervisor shall appoint chairpersons for the teams and boards as needed.

g. The election supervisor shall administer the oath prescribed for election officials to the boards and teams.

h. Any qualified voter of the municipality may be appointed for the boards and teams. If the election is combined with the borough and/or state any borough qualified voter may be appointed.

4.25.030 Use of computers. The election supervisor shall designate the computers to be used in counting the ballots and may negotiate and contract with the state or a private computer service for the needed computer services. During the borough/municipal election the borough equipment may be used in coordination and agreement with the borough and during the state election the state equipment shall be used. The election supervisor is authorized to signed the appropriate equipment agreements.

4.25.040 Tests and security. a. No later than one week before the election, the computer punchcard vote-counting program must be tested in the presence of, and to the satisfaction of, the data processing control board.

b. Other tests shall be made to ensure that the system is functioning properly. 1. a twenty four hour test. 2. a one hour test. 3. immediately after the final vote tabulation is completed.

4.25.050 Demonstration. A demonstration of the punchcard process shall be made available to each voter on request at the polling place before he begins voting, and each voter shall be informed that the demonstration is available.

4.25.060 Voting ballots. The voter shall be given one ballot for candidates and/or proposition, and shall retire alone to a voting booth or other area provided. There, the voter without undue delay shall prepare his ballots by following the instructions provided at the polling place. Before leaving the voting booth or other area provided the voter shall place his ballot in a secrecy sleeve in a manner displaying the numbered stub. The voter shall deliver the ballot to one of the election officials, who shall tear the numbered stub off and hand the ballot back t the voter who shall deposit the ballot in the ballot box.

4.25.070 Delivery of ballots to the counting center. The delivery of ballots from the precinct polling place to the designated computer counting center shall be made by a delivery team consisting of at least two members of each precinct election board. The delivery team shall accompany the ballots from the precinct polling place to the receiving board at the

counting center.

4.25.080 Processing of ballots. The election supervisor shall issue rules prescribing the manner in which ballots shall be processed and counted to ensure accuracy, security and to expedite the process subject to the following procedures:

a. precinct delivery teams shall deliver ballots to the receiving board at the counting center pursuant to HCC 4.25.070.

b. The receiving board shall issue a receipt for ballots received, such receipt to be signed by the delivery team and receiving board.

c. The control board shall transport ballots from the receiving board to the counting area.

d. After the ballots are counted either by electronically or manually the Clerk shall release sealed counted ballots envelopes to the Homer Police Department Officer for security storage until the election is certified, or recount of any precinct is ordered. The counted ballots shall be disposed of in the time and method prescribed by Homer City Code.

4.25.090 Manual counting. The election supervisor shall appoint one or more counting teams to count write-in votes and nonprocessable punchcard ballots and/or paper ballots. If punch card ballots are not used and paper ballots are used the paper ballots will be counted manually, unless provision is made for electronic counting of paper ballots. If an equipment failure occurs and the election supervisory determines that the ballots are to be counted manually, the counting teams shall count the punchcard ballots. Manual counting shall be done in accordance with written rules issued by the election supervisor. Manual Counting shall be done in accordance with state guidelines and the Homer City Code.

4.25.100 Determination of tie votes. If the results of the electronic or manual count show two or more candidates tied in having the highest number of votes for the same office for which there is to be elected only one candidate, the Election Supervisor and/or Data Processing Review Board shall immediately proceed with a recount of the votes for that office. The recount tallies shall be prepared and certified as provided for the first count. If a tie vote still exists the procedure outlined in §4.35.010(e) shall be followed.

## Chapter 4.30

### ABSENTEE VOTING

- 4.30.010 Administration of absentee voting
- 4.30.020 Eligibility
- 4.30.030 Application for Ballot
- 4.30.040 Absentee voter at Polls.
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4.30.010 Administration of absentee voting. The City Clerk shall provide general administrative supervision over the conduct of absentee voting and shall make available instructions to absentee voters regarding the procedure for absentee voting. The City Clerk is not required to provide for an Absentee voting station on Election day, questioned voting takes place on Election day at the polls.

4.30.020 Eligibility. At any election, a qualified voter may vote an absentee ballot for the precinct in which he resides and is registered:



1. If he believes that he will be unavoidably absent from his voting precinct on election day.

2. If he will be unable to be present at the polls because of physical disability.

#### 4.30.030 Application for Ballot.

1. By Mail. A qualified voter may apply for an absentee ballot by mail if postmarked not more than three months before an election or less than the Friday preceding the election. The application shall include the address to which the absentee ballot shall be sent and the applicant's full Alaska residence address and signature.

2. In Person. A qualified voter may apply for an absentee ballot in person by signing the absentee voter register on any day after the ballots are prepared and available, but not on election day.

3. By Personal Representative. A qualified voter may apply for an absentee ballot through a personal representative on the day of, or not more than fifteen days before the date of a regular election. The written application shall contain the statement that he is a qualified voter of the City and his full Alaska residence address. The written application must also be signed by the applicant and be accompanied by a letter from a licensed physician or a statement signed by two qualified voters stating that the applicant will be unable to go to the polling place because of physical disability.

4.30.040 Absentee Voter at Polls. Should an absentee voter present himself to vote on election day, he must present his absentee ballot to the Judges before receiving a ballot. He shall vote a challenged ballot if his absentee ballot is not presented. The Judge or Judges of election shall return the unused absentee voter's ballot with other voting materials of the precinct.

4.30.050 Materials for Absentee Voting. There shall be a small blank envelop or secrecy sleeve and a return envelop supplied to each absentee affidavit of voter qualification, with provision for attesting by a witnessing officer, or two witnesses, both of whom are at least eighteen years of age. The following notice shall appear on the return envelop: "NOTICE: Ballot Enclosed--To Be Opened by the Canvassing Board."

4.30.060 Issuance of Ballot by Mail or in Person. Before delivering any ballot, the Clerk shall verify the applicant's right to vote and may require the applicant to comply with the challenged ballot procedure. Upon issuing an absentee ballot, the Clerk shall remove the numbered stub and attache it to the application noting the date of delivery or mailing. The Clerk shall have available for public inspection the names and addresses of persons who voted absentee.

#### 4.30.070 Casting Absentee Ballot.

1. Upon receipt of an absentee ballot through a personal representative or by mail, the voter whether in or outside the State, in the presence of two attesting witnesses, both of who are at least eighteen years of age, or before an Election Judge, notary public, commissioned District Judge or Magistrate, United States Postmaster, or other person qualified to administer oaths, may proceed to mark the ballot in secret, to place the ballot in the small blank envelop or a secrecy sleeve, to place the small envelop or secrecy sleeve in the larger envelop and to sign the voter's certificate on the back of the larger envelop in the presence of the above-listed officials or designated persons who shall sign as attesting witnesses. The voter may then return the properly enclosed ballot by personal representative or postmarked not later than the day of election, to the Clerk

for delivery to the Canvass Board.

2. Upon receipt of an absentee ballot in person, the voter shall proceed to mark the ballot in secret, to place the ballot in the small blank envelop or secrecy sleeve, to place the small envelop or secrecy sleeve in the larger envelop and to sign the voter's certificate on the back of the larger envelop in the presence of the Clerk or a designated election official who shall sign as attesting witness and retain it for delivery to the Canvass Board.

#### Chapter 4.35

#### CANVASSING AND CERTIFICATION OF ELECTION RESULTS

##### 4.35.010 Review of election documents by Canvass Board.

4.35.010 Review of election documents by Canvass Board. a. The Clerk shall, subject to confirmation of the City Council, appoint a Canvass Board of as many members as required to accomplish the canvass in reasonable time. All members of the election canvass board, before entering upon their duties, must subscribe to the oath required of all public officers by the Constitution of the State of Alaska in the manner prescribed by the Clerk. The Canvass Board will review the preliminary certificates of election and all official documents of the precinct Election Boards and the Counting Center boards.

b. Not later than the Monday following each election, the Canvass Board shall meet in public session and canvass all election returns. The Canvass Board may be recessed from day to day, but not more than three such recesses. In full view of those present, the election Canvass Board shall judge the applicability of absentee and questioned ballots, shall open and tally those accepted, and shall compile the total votes cast in the election. The canvass of ballots counted by the Counting Center shall be accomplished by reviewing the tallies of the recorded vote to check for mathematical error by comparing totals with the Counting Center logs and certificates of results. All obvious errors found by the election canvass in the transfer of totals from the precinct tally sheets to the precinct certificate of results shall be corrected by the Canvass Board. A mistake which has been made in precinct returns from the tallies to the certificate of results, empowers the Canvassing Board to recommend a recount of the results of the precinct or precincts for that portion of the returns in question.

c. To be counted in the election, an absentee ballot must be postmarked by midnight of election day and received by the Clerk before the canvass. Ballot envelopes received after that time shall not be opened, but shall be marked "invalid" with the date and hour of receipt noted thereon, and shall be retained with other ballots of the election.

d. Questioned and absentee ballots shall be counted as follows: No ballot shall be counted if the voter has failed to properly execute the certificate, if the witness or the officer or other person authorized by law to administer the oath fails to affix his signature; or if the voter fails to enclose his marked ballot inside the small envelop or secrecy sleeve provided. The Clerk or a member of the election Canvass Board may challenge the name of an absentee voter if he has good reason to suspect that the voter is not qualified to vote, is disqualified, or has already voted at the same election. The person making the questioned ballot shall specify the basis of the challenge for the record. The Canvassing Board, by majority vote, may refuse to accept the challenge and count the ballot of a person properly challenged. If the ballot is refused, the Clerk shall notify the challenged voter by letter within four weeks of the canvass. All rejected ballots shall be enclosed in a separate envelop and shall be labeled "rejected ballots" retained with other materials of the election. If the ballot is not

rejected, the large envelop shall be opened, the small inner envelop or secrecy sleeve shall be placed in a container and mixed with other blank absentee ballot envelopes, or in the case of counting questioned ballots, with other blank questioned-ballot envelopes, the mixed small blank envelopes or secrecy sleeves shall be drawn from the container, opened, and the ballots counted according to the rules of determining properly marked ballots.

e. If a tie vote exists and only one of the candidates so tied may hold office under the laws establishing the office voted for, the tie shall be broken by a single coin-toss conducted by the City Council at a regular or special meeting. The first candidate to have filed a nominating petition shall call the coin during the toss. A tied candidate may designate a representative to participate in the coin toss in his absence. The designation shall be made in such a manner that the clerk is assured of its authenticity.

f. The candidate receiving the required plurality of the total votes cast for his respective office or in the case of a tie winning the coin toss provided at (e) ., shall be determined to have been elected to that office. The Council shall certify the results of the election at the next regular or special City Council meeting following completion of the canvass by the Canvassing Board.

#### Chapter 4.40

##### RUNOFF ELECTION

4.40.010 Runoff election, required.

4.40.020 Runoff election, date and notice.

4.40.010 Runoff election; required. a. If no City Council candidate receives in excess of forty percent of the votes cast for a respective seat, a runoff election shall be held. When more than one Council seat for the same term is to be filled, total votes cast for a respective seat shall be determined by dividing the total number of votes cast for all candidates by the number of seats to be filled.

b. In the event a runoff is required, the number of candidates receiving the highest votes to provide two candidates for each vacancy shall be included in the list of candidates for the runoff election.

c. If no candidate for the office of Mayor receives forty percent of the votes cast for that office, a runoff election between the two candidates receiving the highest number of votes will be held.

4.40.020 Runoff election; date and notice. a. If a runoff election is required due to the outcome of a regular election, the runoff election shall be held on the Tuesday after the first Monday in November. If a runoff election is required due to the outcome of a special election, the runoff election shall be held on the fourth Tuesday following the special election.

b. At least five days prior to the election, the City Clerk shall post notice of a runoff election in three public places and publish it once in a newspaper of general circulation in the City. The notice shall be in substantially the same form as the notice required for regular and special elections set forth at HCC §4.01.050.

#### Chapter 4.45

##### ELECTION RECOUNT

4.45.010 Election recount.

4.45.010 Election recount. A recount of an election may be called

and, if called, shall be conducted in substantially the same manner as provided for state elections in the Alaska Statutes, including the requirement of a deposit. The City Clerk shall oversee the recount.

#### Chapter 4.50

##### CONTEST OF ELECTION--LIABILITY FOR EXPENSE.

##### 4.50.010 Contest of election--Liability for expense.

4.50.010 Contest of election--Liability for expense. a. Any candidate or ten qualified voters who were qualified to vote on the election day may contest the election of any person or approval or rejection of any question or proposition. Contest of election shall be one or more of the following grounds:

1. Malconduct, fraud, or corruption by an election official sufficient to change the results of the election;

2. The person elected is not qualified under the law or the Homer City Code;

3. Existence of a corrupt election practice as defined by the laws of the State.

b. The candidate or voters initiating a contest shall file a written affidavit with the City Clerk prior to certification of the election or shall appear before the City Council at the meeting held to certify the election returns and deliver a written notice of contest. The notice of contest shall specify the election being contested, shall state the grounds of the contest in detail, and shall bear the notarized signature of the candidate or the qualified voters bringing the contest.

c. Upon receiving a valid notice of contest, the City Council shall order such investigative action as it deems appropriate. If the contest involves voter eligibility, the Clerk and the City Attorney shall be ordered to investigate the allegations and report their findings to the City Council. If other illegal or irregular election practices are alleged to have occurred, the City Council shall order an investigation to be made by the City Manager with the assistance of the Clerk and the Attorney. If the Clerk and Manager are both named in the contest, the Council shall appoint an investigating board to conduct the required investigation. Those contesting the election, those whose election is contested and the public shall be allowed to attend all investigation proceedings.

d. After considering the reports of the investigating officials and any other evidence presented, the City Council shall determine whether the grounds for contest were valid and whether any illegally cast votes could have affected the election results. If they could not have, the City Council may so declare and uphold their previous action in declaring the election validly held.

e. Any person contesting an election as provided herein shall post a cash bond in the amount of seven hundred fifty dollars guaranteeing payment of the cost of contest as surety for such costs. If the recount fails to reverse a result of the election or the difference between the winning and losing vote on the result contested is more than two percent, the candidate or voters contesting the election shall be individually and collectively liable for the whole amount of the expenses incurred by the City in its investigation and deliberation of the election contest; otherwise, the bond shall be refunded in full.

#### Chapter 4.55

##### JUDICIAL REVIEW



4.55.010 Judicial review.

4.55.010 Judicial review. A qualified voter of the city may seek judicial review in the Superior Court of the State of a City election only after he has exhausted his administrative remedies as prescribed by the Homer City Code. Such legal action shall be upon the grounds set forth in AS 15.20.540 for contesting State elections. The judge shall render a decision as required by AS 15.20.560 for State elections. If no such action is commenced within the ten-day period immediately following the declaration of the Council's determination of the contested election, the election results shall be conclusive, final and valid in all respects.

Chapter 4.60

INITIATIVE, REFERENDUM AND RECALL

4.60.010 Public statement and Process  
4.60.020 Recall

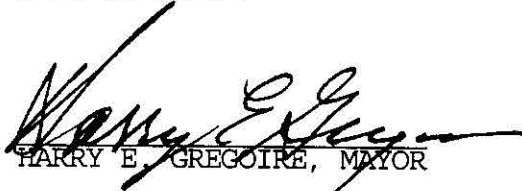
4.60.010 Public statement and Process. The initiative and referendum are forms of direct democracy and as such their availability to, and utilization by, the public must be facilitated while, at the same time, the integrity of the procedures must be maintained through mechanisms which discourage, reduce, and prevent both the occurrence and appearance of fraud. Further, in order to insure clear, fixed and reliable standards, it is necessary that citizens and those officials charged with the validation of petitions be able to rely on designated official, published maps, plats and records of the City of Homer, Kenai Peninsula Borough and on the published voter registration records of the state. The provisions of Alaska Statute 29.26 Article 2, relating to Initiative and Referendum are incorporated into this chapter as if fully set out.

4.60.020 Recall. The provisions of Alaska Statute 29.26 Article 3, relating to Recall are incorporated into this chapter as if fully set out.

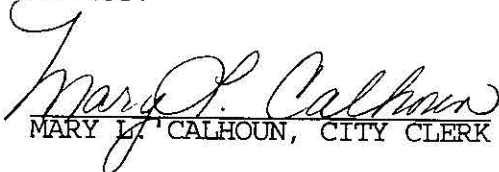
Section 2. This ordinance is of a general and permanent nature and shall be included in the Homer City Code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this 13<sup>th</sup> day of March, 1995

CITY OF HOMER

  
HARRY E. GREGOIRE, MAYOR

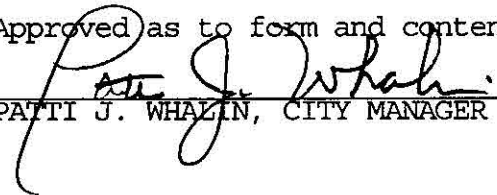
ATTEST:

  
MARY L. CALHOUN, CITY CLERK

AYES: 5  
NOES: 0  
ABSENT: 1  
ABSTAIN: 0

First Reading: 02-13-95  
Public Hearing: 02-27-95  
Second Reading: 03-13-95  
Effective Date: 03-14-95

Approved as to form and content:

  
PATTI J. WHALEN, CITY MANAGER

  
GORDON J. TANS, CITY ATTORNEY